

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JOHN A. FRENCH, JR.,

Plaintiff,
v.

SUE NOVAK, et al.,

ORDER

20-cv-434-wmc

Defendants.

On June 8, 2020, I entered an order directing plaintiff John French to submit an initial partial payment of the filing fee in the amount of \$76.84 by June 29, 2020. Now plaintiff has filed a motion to waive the \$76.84 initial partial payment. Dkt. 8. Plaintiff's request will be denied without prejudice.

Plaintiff has not provided the court with an explanation why he is unable to pay the initial partial; or documentation that shows the steps plaintiff has taken to request funds to pay the initial partial from the institution's business office. Furthermore, the account statement plaintiff submitted with his complaint shows that plaintiff has a balance of \$384.41 in his release account. According to the language of 28 U.S.C. § 1915(b)(1), prison officials are required to use a prisoner's release account to satisfy an initial partial payment if no other funds are available. *Carter v. Bennett*, 399 F. Supp. 2d 936, 936-37 (W.D. Wis. 2005). Therefore, if plaintiff does not have money in his regular account to pay the initial partial payment, plaintiff is allowed to use funds from his release account to pay the initial partial. I will give plaintiff an enlargement of time until July 13, 2020, to pay the initial partial filing fee. Plaintiff should show a copy of this order to prison officials to insure that they are aware they should send plaintiff's initial partial payment to this court.

ORDER

IT IS ORDERED that:

1. Plaintiff John French's motion for the court to waive the initial partial payment in this case, dkt. 8, is DENIED.
2. Plaintiff may have an enlargement of time to July 13, 2020, in which to submit a check or money order payable to the clerk of court in the amount of \$76.84. If plaintiff does not have funds available from his release account to make the initial partial payment, plaintiff is allowed to use funds from his release account to pay the initial partial.
3. If, by July 13, 2020, plaintiff fails to make the initial partial payment, or show cause for failure to do so, plaintiff will be held to have withdrawn this action voluntarily and the case will be closed without prejudice to plaintiff's filing his case at a later date.

Entered this day 11th of June, 2020.

BY THE COURT:

/s/ _____
PETER OPPENEER
Magistrate Judge